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| 09/764,558      | 01/18/2001  | Vincent P. Annunziata | 03169- P0003B       | 6841             |

7590 03/20/2007  
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| EXAMINER |
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TINKLER, MURIEL S

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3691

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE  | DELIVERY MODE |
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| 3 MONTHS                               | 03/20/2007 | PAPER         |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                                      |   |  |
|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/764,558 | <b>Applicant(s)</b><br>ANNUNZIATA, VINCENT P. |  |
|                              | <b>Examiner</b><br>Muriel Tinkler    | <b>Art Unit</b><br>3691                       |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/12/2005</u> | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This application has been reviewed. The amended claims (1, 2, 11, 16 and 24), original claims (3-10, 12-15 and 17) and previously presented claims (18-23 and 25) are pending. The rejections are as follows.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-15 and 18-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marynowski (US 7,177,833 B1) in view of Karmarkar (US 6,508,709 B1).

3. Claims 1-3 and 24 discuss a system for providing a game that simulates the trading of commodities comprising: a computer accessible by a plurality of players over a computer network; a database accessible by said computer containing a plurality of player files associated with a plurality of players of the system wherein each of said plurality of player files contains a player portfolio associated with a specific player including commodities and units thereof and a money value; said plurality of player files further containing a player score determined by said computer based on said player

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portfolio; a database accessible by said computer containing a plurality of indications submitted by players of the system to said computer over said computer network, wherein each of said plurality of indications relates to a bid or offer for a specified number of units of a specified commodity at a specified unit price; an indication selected by a player from said plurality of indications, said indication submitted by the player to said computer over said computer network; software executing on said computer for receiving said selected indication from the player, retrieving a player portfolio from said player database corresponding to the player, updating said listing of commodities and units thereof in said retrieved player portfolio to reflect said selected indication, updating said money value in said retrieved player portfolio to reflect said selected indication, and removing the selected indication from said indication database; and software executing on said computer for retrieving game-ending criteria, ceasing further game play when said game-ending criteria are met, retrieving scoring criteria, retrieving said player portfolio, determining a player score based on said player portfolio, and determining a winner based on said player scores. Marynowski discloses:

- a system for the trading of commodities in the Background of the Invention under '2. Description of the Related Art', column 24 (line 55) through column 25 (line 8);
- a computer accessible by a plurality of players over a computer network in the Background of the Invention under '2. Description of the Related Art', figures (1, 2 and 6), column 4 (lines 3-63);
- a database accessible by said computer containing a plurality of player files associated with a plurality of players of the system wherein each of said plurality of

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player files contains a player portfolio associated with a specific player including commodities and units thereof and a money value as maintaining records and statistics in the Background of the Invention under '2. Description of the Related Art', Summary of the Invention and column 3 (lines 43-57);

- said plurality of player files further containing a player score determined by said computer based on said player portfolio as a traders position in call options in column 20 (line 46) through column 21 (line 4).
- a database accessible by said computer containing a plurality of indications submitted by players of the system to said computer over said computer network, wherein each of said plurality of indications relates to a bid or offer for a specified number of units of a specified commodity at a specified unit price in Background of the Invention under '2. Description of the Related Art', column 3 (lines 36-42), column 7 (lines 36-52), column 8 (lines 21-54) and column 9 (lines 22-56);
- an indication selected by a player from said plurality of indications, said indication submitted by the player to said computer over said computer network in Background of the Invention under '2. Description of the Related Art', column 7 (lines 36-52) and column 9 (lines 37-53);
- software executing on said computer for receiving said selected indication from the player, retrieving a player portfolio from said player database corresponding to the player, updating said listing of commodities and units thereof in said retrieved player portfolio to reflect said selected indication, updating said money value in said retrieved player portfolio to reflect said selected indication, and removing the

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selected indication from said indication database in column 7(line 53) through column 8 (line 20), column 10 (lines 7-19), column 11 (lines 9-27) and column 17 (lines 13-48);

- software executing on said computer for retrieving game-ending criteria, ceasing further game play when said game-ending criteria are met, retrieving scoring criteria, retrieving said player portfolio, in the Background of the Invention under '2.

Description of the Related Art' and figure 5. Updating of player scores has been disclosed above; and,

- determining a player score based on said player portfolio as shown by the value in the 'POS' column of figure 4 and column 20 (line46) through column 21 (line 4).

While Marynowski suggests a winner based on said player scores by the use of ranking in the 'POS' column of figure 4, Marynowski does not specifically state the act of determining a winner based on said player scores. Karmarkar teaches the act of winning based on a player's scores in column 12 (lines 44-63) and column 18 (lines 13-30). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to allow for a winner of the game to make it clearer to the participating traders when the game is over.

4. Claim 4 discusses the system of claim 2 wherein said game-ending criteria are met upon the expiration of a preset time period. Claim 2 has been rejected based on the discussion(s) above. Marynowski discloses the use of a time period for automatic trading attempts in column 18 (lines 13-32).

5. Claim 5 discusses the system of claim 2 wherein said game-ending criteria are met upon one of said plurality of players attaining a predetermined player score. Claim 2 has been rejected based on the discussion(s) above. Marynowski discloses this predetermined score as executing a trade using a put or call price in column 7(line 53) through column 8 (line 20), column 10 (lines 7-19), column 11 (lines 9-27) and column 17 (lines 13-48).

6. Claim 6 discusses the system of claim 2 wherein each of said players begins the game with an empty player portfolio and said game rules include predetermined limitations on a player's open position in any given commodity. Claim 2 has been rejected based on the discussion(s) above. Marynowski discloses the use of limitations on the number of orders a trader can have pending in column 10 (line 39) through column 11 (line 8).

7. Claim 7 discusses the system of claim 6 wherein said predetermined limitations on a player's open position in any given commodity are effective upon satisfaction of said game-ending criteria. Claim 6 has been rejected based on the discussion(s) above. Marynowski does not specifically disclose the use of limitation factors based on game-ending criteria. Karmarkar does disclose the use of limiting credit card losses of a player, thereby limiting the amount on a trader based on game-ending criteria in column 27 (lines 22-40). Therefore, it would have been obvious to a person having ordinary

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skill in the art at the time the invention was made to use a limiting factor based on game-ending criteria because to limit the total loss of the trader and safe-guard the lending institution.

8. Claim 8 discusses the system of claim 2 wherein each of said players begins the game with predetermined commodities and units thereof available for placing and accepting indications and a predetermined money value player portfolio available for placing and accepting indications. Claim 2 has been rejected based on the discussion(s) above. Marynowski discloses the use of precalculated values in the Abstract and column 11 (lines 28-45).

9. Claim 9 discusses the system of claim 1 further comprising: a completed bid submission form containing a proposed bid to buy submitted by the player to said computer over said computer network; and, software executing on said computer for transmitting an indication submission form to the player over said computer network, receiving said completed indication submission form submitted by the player, querying said retrieved player portfolio to verify sufficient money value to back said proposed bid, and creating a new indication based on said completed indication submission form, and storing said new indication in said indication database. Claim 1 has been rejected based on the discussion(s) above. See the rejection of claim 1 above. Marynowski discloses the use of form fields of an exchange site to submit a bid order in the Abstract,



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Background of the Invention, Summary of the Invention, figure 4, and figure 1 (element 225).

10. Claim 10 discusses the system of claim 1 further comprising: a completed offer submission form containing a proposed offer to sell submitted by the player to said computer over said computer network; and, software executing on said computer for transmitting an indication submission form to the player over said computer network, receiving said completed indication submission form submitted by the player, querying said retrieved player portfolio to verify sufficient units of a commodity specified in said proposed offer to back said proposed offer, and creating a new indication based on said completed indication submission form, and storing said new indication in said indication database. Claim 1 has been rejected based on the discussion(s) above. Claim 1 has been rejected based on the discussion(s) above. See the rejection of claim 1 above. Marynowski discloses the use of form fields of an exchange site to submit a bid order in the Abstract, Background of the Invention, Summary of the Invention, figure 4, and figure 1 (element 225).

11. Claim 11 discusses the system of claim 9, further comprising software executing on said computer for retrieving said game rules from said game rules database, determining whether said new indication violates said games rules, and notifying the player of any determined violations over said computer network. Claim 9 has been rejected based on the discussion(s) above. Marynowski does not specifically disclose

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the act of violating the rules of the game and notifying the player. Karmarkar teaches the act of notifying the player of a determined violation, such as an insufficient balance, in column 12 (lines 44-63), figure 9 (element 451) and column 16 (lines 47-59).

12. Claim 12 discusses the system of claim 1 further comprising: a presentation of said plurality of indications transmitted from said computer to the player over said computer network, and, software executing on said computer for retrieving said plurality of indications from said indication database and transmitting said plurality of indications to the player over said computer network. Claim 1 has been rejected based on the discussion(s) above. Marynowski discloses this in figures (1, 2 and 4). Also, see the rejection of claim 1 above.

13. Claim 13 discusses the system of claim 12 further comprising: a formatting selection submitted to said computer by the player over said computer network; and, software executing on said computer for transmitting a plurality of formatting options to the player over said computer network, receiving said formatting selection submitted by the player, and formatting said presentation according to said formatting selection prior to transmitting said presentation to the player. Claim 12 has been rejected based on the discussion(s) above. Marynowski using an organized format and a format required by the exchange in Background of the Invention under '2. Description of the Related Art' and column 23 (lines 26-43). Marynowski does not specifically disclose the use of format selections. Karmarkar teaches the use of format selections as the option to

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change the rate of viewing in column 11 (lines 39-67) and column 16 (line 60) though column 17 (line 15) and as the option to view in 2D or 3D in column 20 (lines 18-37) and column 26 (line 47) though column 27 (line 6). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Marynowski to include format selections because it allows the trader to have preferred viewing and make it more likely for the trader to continue trading.

14. Claim 14 discusses the system of claim 12 further comprising: a sorting selection submitted to said computer by the player over said computer network; and, software executing on said computer for transmitting a plurality of sorting options to the player over said computer network, receiving said sorting selection submitted by the player, and sorting said presentation according to said submitted sorting selection prior to transmitting said presentation to the player. Claim 12 has been rejected based on the discussion(s) above. Marynowski discloses a sorting selection, or structuring the option data table and/or theoretical price table to show certain options/prices first, in column 10 (line 39) through column 11 (line 8).

15. Claim 15 discusses the system of claim 12 further comprising: a content selection submitted to said computer by the player over said computer network; and, software executing on said computer for transmitting a plurality of content options to the player over said computer network, receiving said content selection submitted by the player, retrieving indications from said indications database corresponding to said

submitted content selection, and transmitting said retrieved indications to the player over said computer network. Claim 12 has been rejected based on the discussion(s) above. Marynowski discloses content selection, or storing selective information, in column 7 (line 53) through column 8 (line 20).

16. Claim 18 discusses the system of claim 2 wherein said game rules further comprise limits on the amount or type of units in which specific commodities may be offered. Claim 2 has been rejected based on the discussion(s) above. Marynowski discloses the use of limits on the amount or type of units for a commodity in column 18 (lines 13-32 and 58-67) and column 19 (lines 1-12).

17. Claim 19 discusses the system of claim 2 wherein said game rules further comprise pre-defined lot sizes for various commodities. Claim 2 has been rejected based on the discussion(s) above. Marynowski discloses the use of a market order in column 25 (lines 34-55), tables 4-6, column 26 (line 49-67) and column 27 (lines 1-4 and 19-40).

18. Claim 20 discusses the system of claim 2 wherein said game rules further comprise limits on the total open position a player may maintain at any given time overall for specific commodities. Claim 2 has been rejected based on the discussion(s) above. Marynowski discloses the act of limiting the number of orders or quotes that a

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particular trader may have pending at a given time in column 10 (line 39) through column 11 (line 8).

19. Claim 21 discusses the system of claim 1 wherein said plurality of indications are presented to a player in a customizable format such that only pre-selected types of indications are presented to the player or are presented to the player in a pre-selected format. Claim 1 has been rejected based on the discussion(s) above. Marynowski disclose the use of a grid or other organized format in the Background of the Invention under '2. Description of the Related Art', and a format required by the exchange in column 23 (lines 26-43).

20. Claim 22 discusses the system of claim 21 wherein pre-selected format comprises a tabular or graphical format. Claim 21 has been rejected based on the discussion(s) above. Marynowski discloses the use of a tabular format in figure 4, column 20 (lines 32-45) and column 21 (lines 5-17).

21. Claim 23 discusses the system of claim 1 wherein said plurality of indications are presented to a player on a real-time basis such that the player may review any current bids and offers as they are made available. Claim 1 has been rejected based on the discussion(s) above. Marynowski discloses the use of real-time trade information in the Background of the Art under '2. Description of the Related Art' and column 6 (lines 7-43).

22. Claim 25 discusses the commodities trading simulation of claim 1 comprising game rules, said game rules selected from the group consisting of: a limitation on the amount or type of units in which specific commodities may be offered; a pre-defined lot size for a commodity; a limit on the total open position a player may maintain at any given time; a limit on the total open position a player may maintain for a commodity; and combinations thereof. Claim 1 has been rejected based on the discussion(s) above. See the rejections of claims 18-20 above.

23. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marynowski and Karmarkar as applied to claim 1 above, and further in view of Sernet (US 2002/0032632 A1).

24. Claim 16 discusses the system of claim 1 further comprising: a request to register submitted by the player to said computer over said computer network; software executing on said computer for transmitting a registration form to the player over said computer network link in response to said request; a completed registration form submitted by the player to said computer over said computer network; and, software executing on said computer for receiving said completed registration form, creating a player file based on said completed registration form, and storing said player file in said player database. Claim 1 has been rejected based on the discussion(s) above. Marynowski and Karmarkar disclose the information in claim 1. Marynowski and

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Karmarkar do not disclose the use of registering users. Sernet teaches the use of registering users in figure 2 (elements 201 and 201a), paragraph 28 and claim 3.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Marynowski and Karmarkar to include the use of registering users because it will provide added security to the gaming network.

25. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marynowski and Karmarkar as applied to claim 1 above, and further in view of Growney (US 7,062,460 B1).

26. Claim 17 discusses the system of claim 1 wherein said computer network comprises the Internet and said system further comprising software executing on said computer for operating and maintaining a website for facilitating communication between the computer and the player. Claim 1 has been rejected based on the discussion(s) above. Marynowski and Karmarkar do not disclose the use of an Internet website. Growney et al. teaches the use of an Internet website in the Summary of the Invention. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Marynowski and Karmarkar to include an Internet website because it would allow users to access the gaming system from any remote location without the process of installing additional gaming software.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Muriel Tinkler whose telephone number is (571)272-7976. The examiner can normally be reached on Monday through Friday from 7:30 AM until 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571)272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MT  
March 12, 2007



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PRIMARY EXAMINER